

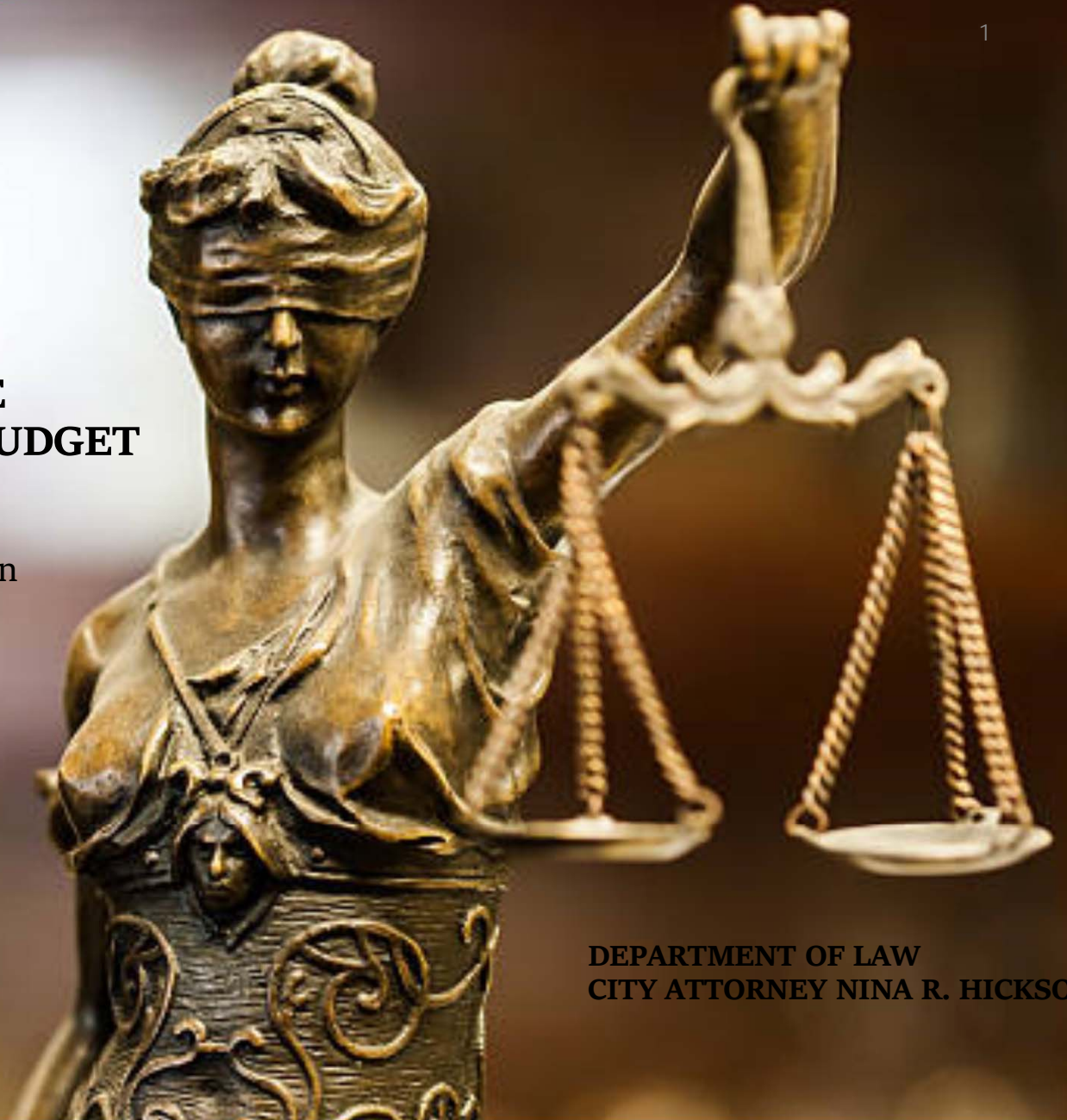


PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE DEPARTMENTAL OVERVIEW/BUDGET PRESENTATION

Councilmember Dustin R. Hillis - Chairman
Councilmember J.P. Matzigkeit
Councilmember Andrea L. Boone
Councilmember Andre Dickens
Councilmember Marci Collier Overstreet
Councilmember Howard Shook
Councilmember Antonio Brown

**QUARTERLY OVERVIEW
June 25, 2019**

**DEPARTMENT OF LAW
CITY ATTORNEY NINA R. HICKSON**





QUESTIONS AND TOPICS POSED BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

- Update on Claims and Settlements since last report provided to the Public Safety and Legal Administration Committee on March 26, 2019.
- Personnel Update
 - Vacancies and Hiring
- Law Staff Accomplishments
- Highlights & Major Matters across Divisions
- Division Accomplishments
- Total Claims and Settlement Payments
 - Quarterly Update
 - Calendar Year-To-Date Snapshot
- Outside Counsel Report
 - Number of Outsourced Matters
 - Spending to Date
- Revenue Recovery



HIRING AND VACANCIES AS OF JUNE 25, 2019

- **Total Attorney Vacant Positions**
- Attorney Vacancies – 8
 - 3 Current Vacant Positions
 - 5 Newly Created Vacancies requested in the FY20 Budget Ordinance; 2 of which will be funded from 1 high level abolishment.
- **Total Support Staff Vacant Positions**
- Support Staff Vacancies – 13
 - 6 Current Vacant Positions
 - 7 Newly Created Vacant Positions



LAW STAFF ACCOMPLISHMENTS

- **GAWL Election:** Shalanda Miller was elected Vice-Chair of the Georgia Association of Women Lawyers Mentoring Committee. She and a team of three co-chairs are responsible for implementing Neighborhood Networking Breakfasts for lawyers to meet in intimate groups in their communities for service opportunities, learning opportunities and fun; GAWL Affinity Groups for lawyers with the same or similar practice areas and interests to learn from each other, exchange ideas and practice tips; and GAWL Edu for young lawyers (3-5 years in the practice) GAWL provides a curriculum lead by local attorneys to help the young lawyers develop professionally and personally through instruction on a broad range of legal, personal care and business development topics.



LAW STAFF ACCOMPLISHMENTS

- **Atlanta Bar Association Appointment:** Alisha Wyatt-Bullman was selected to serve, as a "member-at-large," on the board for the Women in the Profession Section of the Atlanta Bar Association for the 2019-2020 year. The Women in the Profession Section of the Atlanta Bar is dedicated to furthering the practice and perception of law with a focus on issues unique to women in the practice.
- **Land Use Institute Presenter & Panelist:** At the 33rd Annual Land Use Institute in Baltimore, MD, Erica Levine Powers presented on Hydraulic Fracturing in a panel on “Federal Laws, Regulations and Programs Affecting Local Land Use Decision-Making”. She also moderated a breakout panel on “Climate Change and Resilient Development.”



LAW STAFF ACCOMPLISHMENTS

- **American Bar Association Election:** Erica Levine Powers serves as Vice-Chair of the ABA Section of State & Local Government Law and will become Chair-Elect in August 2019.
- **Georgia Municipal Association Election:** Stefanie Grant was elected Secretary of the Georgia Municipal Association City Attorney Section at the recent GMA Convention on June 22, 2019. Through this association, the City's Law Department will have a non-voting seat on GMA's Board of Directors.
- **American Bar Association Award:** C. Elisia Frasier is receiving the Jefferson B. Fordham Award for Advocacy from the ABA Section of State & Local Government Law. The Section established the Jefferson B. Fordham Awards to honor outstanding attorneys and law offices that have achieved professional excellence within the area of state and local government law.



LITIGATION DIVISION



LITIGATION DIVISION

❖ Accomplishments

- **Ingram v. City of Atlanta et al.:** Plaintiff alleged that a City of Atlanta Police Department firing range instructor made defamatory statements about her. Plaintiff alleged Defamation, Intentional Infliction of Emotional Distress, Negligent Hiring, and Negligent Retention. The Court granted the City's Motion to Dismiss for failure to provide an ante-litem notice.
- **Gates v. City of Atlanta, et al.:** Plaintiff alleged that APD Officers arrested him in violation of his First Amendment rights for refusing to remove a mask when instructed by the Officers. The Eleventh Circuit granted the officers immunity and ordered that the City be dismissed from the lawsuit. Thereafter, the Law Department successfully defeated the Petition for a Writ of Certiorari to the Supreme Court of the United States of America.



LITIGATION DIVISION

❖ Accomplishments

- **Richardson v. City of Atlanta:** Plaintiff was an employee in the Department of Public Works. After being terminated, Plaintiff alleged age discrimination and retaliation. The Court granted summary judgment in favor of the City finding that there was no evidence to support her allegations.
- **Ruch v. City of Atlanta:** Plaintiff alleged that Sgt. McKenzie arrested him in violation of his First Amendment rights while Plaintiff was acting as a journalist photographing the Ferguson protest activities. The District Court judge held that Sgt. McKenzie with APD had probable cause to arrest Plaintiff for obstruction because he attempted to enter into the zone of safety that was being set up to protect officers from danger. The Court granted summary judgment in favor of the officer.



LITIGATION DIVISION

❖ Major Matters

- **Cheshire Bridge Holdings, LLC v. City of Atlanta, et al.:** Plaintiff is the owner of an adult entertainment business and novelty store named Tokyo Valentino located on Cheshire Bridge Road in the City of Atlanta. In 1996, the City denied Plaintiff's application for a business license because the store's proximity to a residential neighborhood violated the City's newly enacted zoning ordinance. Plaintiff filed a lawsuit alleging that the City's zoning ordinance violated the Plaintiff's First Amendment Free Speech rights. The 11th Circuit U.S. Court of Appeals recently reversed a prior ruling in the City's favor and ordered that the U.S. District Court revisit its ruling on the constitutionality of the City's zoning ordinance.



TRANSACTIONS DIVISION



TRANSACTIONS DIVISION - FINANCE

❖ Current Major Matters

- **Department of Aviation General Airport Revenue Bonds and Passenger Facility Charges Bonds**
 - Amount: \$900,000,000
 - Purpose: To provide long term financing of outstanding commercial paper and new money to fund the Hartsfield Jackson Atlanta International Airport ATLNext program.
 - Status: In the legislative process.
- **Department of Aviation Refunding Bonds**
 - Amount: \$300,000,000
 - Purpose: To refund the Series 2010A/B bonds.
 - Status: In the legislative process.



TRANSACTIONS DIVISION - FINANCE

❖ Current Major Matters

■ Department of Aviation Commercial Paper Program

- Amount: \$2,000,000,000
- Purpose: To extend and increase the current commercial paper program to fund the Hartsfield Jackson Atlanta International Airport ATLNext program
- Status: In the legislative process.

■ Department of Watershed Management Refunding Bonds

- Amount: \$100,000,000
- Purpose: To refund the Series 2009B bonds
- Status: In the legislative process.



TRANSACTIONS DIVISION - FINANCE

❖ Current Major Matters

■ **Taxation**

- Started negotiations with the IRS to remove \$69,000 in penalties and late fees assessed against the Firefighter's Pension Fund.
- Continued working with the Office of Revenue to revise/update the business tax portion of the Code of Ordinances. The business tax language in the Code is outdated (most sections were last revised in 2004) and contains grammatical errors and references to repealed ordinances that have been removed in the rewrite. The revision of the business tax language is designed to improve efficiency and fairness in the way that the City taxes firms that operate in the City and to remove several loopholes that have allowed firms to escape taxation. Specifically, the loopholes include:



TRANSACTIONS DIVISION - FINANCE

❖ Current Major Matters

■ **Taxation (cont.)**

- Undefined terms such as: “interorganizational sales and transfers” that allow companies to exclude revenue that would otherwise be subject to occupation tax. A lack of penalties for payments rejected due to insufficient funds (NSF). Under current law, the City does not have the ability to recoup costs incurred as a result of bad checks.
- A failure to file tax penalty of \$500 per year that only applies to firms that have had business licenses in the past but have failed to renew their license. If a firm has been in business for several years and never had a business license, the failure to file penalty cannot be assessed.
- A lack of penalties for payments rejected due to insufficient funds (NSF). Under current law, the City does not have the ability to recoup costs incurred as a result of bad checks.



TRANSACTIONS DIVISION - FINANCE

❖ Accomplishments

■ **Revenue Recovery**

- Recovered approximately \$50,000 in occupation taxes.

■ **Community Land Trusts**

- Worked with the Office of Intergovernmental Affairs to draft legislation that will allow homeowners whose land is owned by community land trusts to receive the homestead exemption from property taxes. This legislation was signed into law and will be considered for approval by Atlanta voters.



TRANSACTIONS DIVISION - FINANCE

❖ Accomplishments

■ **Intergovernmental Agreements**

- Drafted legislation for the shared delivery of services with DeKalb County. The City has contracts with DeKalb County to provide certain services (such as elections) in the portion of Atlanta situated in DeKalb. As a result of the incorporation of the City of Stonecrest last year, a new shared services agreement was drafted with all cities located completely or partially in DeKalb County. Legislative approval was needed (and was received) for the City to ratify the shared services agreement.



TRANSACTIONS DIVISION – REAL ESTATE

❖ Current Major Matters

- **Enota Park Place & Old Fourth Ward Park:** The Law Department is working with ABI to effectuate the transfer of certain parcels from ABI to the City for the expansion of Enota Park Place & Old Fourth Ward Park.
- **143 Alabama Transactions:** Legislation was adopted authorizing: (1) land assemblage required for a land swap with MARTA and a purchase from the AFCRA; (2) the transfer of the assembled property to Invest Atlanta and sale of the same to Pope & Land; and (3) the purchase from Pope & Land of a condominium at 143 Alabama for city office space. The exact terms of the agreements between the parties are being negotiated.



TRANSACTIONS DIVISION – REAL ESTATE

❖ Current Major Matters

- **APS Deed Transfers:** The Law Department is working with APS to resolve issues and introduce legislation concerning transfer of the remaining 7 properties. A status update memo was prepared for the Mayor's Office recommended transfer of several properties and recommending that the Mayor's Office assume negotiations with APS for the remaining properties. Work with APS concerning the abandonment of Old Hortense Place as a part of the transfer of Woodson Elementary to APS.



TRANSACTIONS DIVISION – REAL ESTATE

❖ Current Major Matters

- **Rodney Cook Sr. Park in Historic Vine City:** Legislation was adopted authorizing the condemnation of six parcels on Elm Street to assemble the necessary parcels to complete the park project. The special master hearings have occurred and one of the property owners has filed an appeal.
- **Gulch Land Swap:** A Land Swap Agreement, parking agreement and lease of 160 Trinity Ave. are being negotiated with CIM.



TRANSACTIONS DIVISION – REAL ESTATE

❖ Current Major Matters

- **Bitsy Grant Sublease:** The Law Department is working with the Bobby Jones Foundation and DPR to finalize negotiations for the cities sublease of 12 tennis courts.
- **Bobby Jones Clubhouse Sublease and MOU:** Legislation was adopted authorizing a nonprofit group to sublease and manage the clubhouse at Bobby Jones Golf Course. The Law Department is working with Councilmember Matzigkeit and DPR to finalize negotiations for execution of the lease and MOU with the nonprofit group. The state is currently reviewing the agreements in response to our request for an acknowledgment consenting to the agreements.



OPERATIONS DIVISION





OPERATIONS DIVISION - WATERSHED

❖ Accomplishments

- **GEFA Funding:** The Law Department assisted the Department of Watershed with applying for \$45,000,000 in GEFA funding for various projects.
- **Revenue Recovery:**
 - Recovered \$1,822,684 from FEMA and GEMA for flood damage to Watershed's R.M. Clayton facility.
 - Recovered \$11,297 for the Department of Watershed Management through quiet-title actions.



OPERATIONS DIVISION - AIRPORT

❖ Accomplishments

- **Fuel Farm Services Bid Protest:** The Law Department successfully defended the City against a bid protest and a temporary restraining order related to fuel farm services at the Airport. The procurement for fuel farm services is worth \$13,500,000 over the course of the five-year agreement.
- **State Airport Takeover Defense:** The Law Department provided advice and support related to challenges to legislation to take over the management and operations of the Airport. The attempted takeover was thwarted.



OPERATIONS DIVISION - AIRPORT

❖ Accomplishments

- **Airport Commercial Developments:** The Law Department assisted the airport with multiple RFPs for developments around the region. These developments will hopefully spur economic development and provide added tax revenues. The Law Department assisted in the drafting and review of available properties, leases and development agreements.



OPERATIONS DIVISION – CITY PLANNING

❖ Accomplishments

- **Media, LLC v. City of Atlanta and Board of Zoning Adjustment:**
The Land Use team successfully defended a decision of the Board of Zoning Adjustment (“BZA”) in the Georgia Court of Appeals. The BZA previously upheld a decision of the Office of Buildings after a hearing. The Plaintiff then appealed to Superior Court, and the City won again. Thereafter, the Plaintiff appealed to the Georgia Court of Appeals. The Court of Appeals heard the appeal, but after the briefs were filed, the Court of Appeals ruled in the City’s favor. The Plaintiff did not appeal to the Supreme Court and the matter is now concluded.



OPERATIONS DIVISION – CITY PLANNING

❖ Accomplishments

■ Outdoor Communications Structures, Inc. v. City of Atlanta:

The owner of a non-conforming billboard located at Williams Street and 75 North requested a special exception from the Board of Zoning Adjustment to increase the height of the billboard. A height increase would mean the billboard exceeds the current height limits of the City's Zoning Code. The BZA denied the request and the owner appealed by certiorari to Superior Court. The Law Department successfully defended the appeal, and the Court actually asked the Law Department to draft the order denying the appeal. The owner has until early July to try to appeal, but any such attempt is not likely to succeed.



OPERATIONS DIVISION – CITY PLANNING

❖ Accomplishments

- **BZA Appeal:** The Law Department successfully defended a decision of the Office of Buildings to grant two sign permits after an appeal at a hearing in front of the Board of Zoning Adjustment. The Law department will represent the BZA and its decision should there be an appeal to Superior Court.



UPDATE ON CLAIMS & SETTLEMENTS





UPDATE ON CLAIMS & SETTLEMENTS

❖ Total Claims and Settlement Payments

- There was a 1% increase in pending claims from (1149) in March 2019 to (1162) in April 2019 as of CY19 Q2.
- In CY19 January - March, the City received demands of \$11,209,867. Of the total amount demanded in CY19, the City paid \$1,403,244 in settlements, 13% of the amount demanded in CY19. The Law Department successfully and effectively litigated and negotiated claims and cases that resulted in the City only paying \$1.4 million dollars when the financial exposure was over \$11million dollars.



UPDATE ON CLAIMS & SETTLEMENTS CY19 Q1

❖ Itemized Claims and Settlement Payments by Department

CY19 CYTD 2019 (Q1) Litigation Cases Settlement Totals

<u>Department</u>	<u>Payments</u>	<u>Fund Impact</u>
City Planning	5,194	General Fund
Fire Rescue	90,000	General Fund
Mayor's Office	100,000	General Fund
Police	638,250	General Fund
Public Works	427,500	General Fund
Watershed Management	65,500	General Fund
Watershed Management	76,800	Water & Sewer
TOTAL LITIGATION SETTLEMENTS	1,403,244	

CY19 CYTD 2019 CLAIM SETTLEMENT TOTALS

<u>Department</u>	<u>Payments</u>	<u>Fund Impact</u>
Aviation	6,480	Aviation
Parks & Recreation	202	General Fund
Police	17,680	General Fund
Public Works	20,398	General Fund
Watershed Management	55,632	Water & Sewer
TOTAL CLAIM SETTLEMENTS	100,392	

TOTAL CYTD LITIGATION & CLAIM TOTALS	\$1,503,636
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OUTSIDE COUNSEL SPENDING REPORT FISCAL-YEAR-TO-DATE

	FY19	FY18	
	<u>July-June. 2019</u>	<u>July-June. 2018</u>	<u>%Chg.</u>
■ NUMBER OF OUTSOURCED MATTERS	58	73	-20%
<u>SPENDING TO DATE</u>			
■ AVIATION FUND	4,822,436	5,273,180	-8%
■ WATERSHED FUND	5,824,404 ¹	4,368,659	33%
■ GENERAL FUND	3,219,205	6,459,314	-50%
■ TOTAL SPENDING COMBINED FUNDS	13,866,045	16,101,153	-13%

¹ Increase in Watershed Outside Counsel Spending due to Condemnation Litigation and DOJ Matters.

- Total Spending on DOJ Investigation: \$19.3M from January 2017 – June 2019. This amount represents both paid and unpaid invoices.



REVENUE RECOVERY \$26.9M FISCAL-YEAR-TO-DATE

- **FEMA and GEMA Recovery**: The Law Department recovered approximately \$26,451,289 through administrative appeals filed with FEMA to recover funds associated with the flooding of the Department of Watershed Management's R.M. Clayton facility.
- **Occupational Tax Payment Recovery**: The Law Department provided legal guidance in recovering over \$300,000 in occupational tax payments.



REVENUE RECOVERY \$26.9M FISCAL-YEAR-TO-DATE

- **Water/Sewer Collections:** The Law Department collected \$141,170 in past due water/sewer bills on behalf of the Department of Watershed management.
- **Quiet Title - Watershed:** As part of quiet-title actions filed against the City, the Law Department recovered \$32,297.



QUESTIONS

